S.B.CIVIL WRIT PETITION NO.3929/2006

M/s Surajmal Nagarmal
v.
Sadulram Sihag & Anr.

Date of Order :: 20th August, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Pankaj Gupta, for the petitioner.

....

This petition for writ is preferred to challenge the order dated 5.9.2005 passed by Additional District Judge No.2, Sriganganagar in Revision Petition No.1/2005. By the order aforesaid learned Additional District Judge while accepting the revision petition preferred by respondent Sadulram Sihag, set aside the order dated 24.8.2004 passed by the Debt Relief Court and remanded the matter for its fresh adjudication. Learned Additional District Judge held that the trial court should have given an opportunity to the defendant to file written statement in view of the fact that the proviso to Order 8 Rule 1 CPC being procedural is not mandatory.

The contention of counsel for the petitioner while assailing validity of the order aforesaid is that sufficient opportunity was given to the respondent defendant to file written but he failed to avail so, therefore, there was no occasion for the

revisional court to interfere with the matter and to permit for filing written statement. It is also asserted that the revisional court erred while condoning the delay in filing the revision petition.

I am not inclined to interfere with the matter simply for the reason that the order dated 5.9.2005 is passed by the revisional court keeping the interest of justice in mind. Learned revisional court rightly held that the provisions of proviso to Order 8 Rule 1 CPC being procedural is not mandatory and, therefore, to protect the interest of justice, it was necessary to permit the respondent defendant to file written. While condoning delay in filing revision petition a broad discretion is exercised by the revisional court and such discretion, if not shockingly arbitrary, does not require any interference.

Accordingly, this petition for writ is dismissed.

(GOVIND MATHUR),J.

Kkm/ps.